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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,572	10/23/2001	Donald E. White	205071	1824

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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,572

Applicant(s)

WHITE ET AL.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 17-28 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6-11 and 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the second office action for application serial number 10/045,572, Retainer Clip for Mounting Sink To Counter Top, filed on 10/23/01. This application contains 28 claims numbered 1-28.

Claim Objections

2. Claim 2 is objected to because of the following informalities: "a front face" line 2 should be changed to --the front face--. Correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is rejected as being unclear because claim 12 is dependent upon itself, not other claim, renders the claim indefinite. The examiner will assume that claim 12 depends upon claim 11.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent No. 3,229,310 to Enschr.

Regarding claims 1-2, Enschr discloses a retaining device for fastening a sink to a counter top comprising: a ratchet plate (16, 17, 18, 20, 30) mountable to an edge of the counter top, the ratchet plate including a front face having plurality of detents (32); and a pawl (28) mountable to the sink and configured to deflectively engage at least one of the detents of the ratchet plate; and each of the detents includes a generally horizontal groove on the front face of the ratchet plate, the detents being aligned parallel to each other.

Regarding claim 5, Enschr also discloses the pawl including at least one resilient tabs (42, 44) which deflectably engages the ratchet plate.

Regarding claim 13, the limitations as recited in claim 13 are therefore, also disclosed by Enschr.

Allowable Subject Matter

5. Claims 3-4, 6-7, 8 -11, and 14-16 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claim 12 is rejected but would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 17-28 are allowed.

Response to Arguments

6. Applicant's arguments filed on 10/22/02 have been fully considered but they are not persuasive.

Applicant argues that Enschr'310 does not disclose a ratchet plate including a front face having a plurality of detents mounted to the counter top, or a pawl mounted to the sink. Examiner respectfully disagrees. Enschr clearly discloses a ratchet plate including a front face having a plurality of detents mountable to the counter top, or a pawl mountable to the sink as recited in the claim 1.

It's noted that the terms such as "mountable" as recited in claims 1 and 13 are understood in the sense that things, which may be done, are not required to be done and not required structurally to be mounted. The terms "configured to be mounted" or adapted to be mounted" are also understood as an intended use of the structure and the intended use of the structure must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See

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In re Casey, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In the instant case, the ratchet plate or a pawl of Ensich is capable of performing the intended use as recited in the claims.

Conclusion

7. This Action is made Non-Final.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Monday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.



Tan Le
Patent Examiner
AU 3632
January 7, 2003.



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER